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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.REV.P. 535/2018 & CRL.M.A. 11295/2018**

SATVEER

..... Petitioner

Through: Mr. Saurabh Soni, DHCLSC
and Mr. Kshitiz Rai, Advs.

versus

STATE

..... Respondent

Through: Mr. Ashish Dutta, APP with SI
Vinod Kumar, PS Sarita Vihar,
Delhi

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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18.12.2018

CRL.M.A. 11295/2018 (for condonation of delay)

In view of the cause submitted by the petitioner, delay in filing the petition is condoned. Application stands disposed of.

CRL.REV.P. 535/2018

1. The petitioner has filed the present criminal revision petition under Section 401 read with Section 397 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') against the judgment dated 17.2.2018 passed by the Additional Sessions Judge-04, Special Judge (NDPS), South-East, Saket Courts in Criminal Appeal No.454/2017 (in CA No.129/2017) upholding the judgment dated 1.10.2016 passed by the Metropolitan Magistrate, Saket Courts, Delhi and order on sentence dated 28.10.2017 in FIR No.94/2002 PS Sarita Vihar, under Sections

279/304-A of the Indian Penal Code, 1860 ('IPC').

2. The learned Metropolitan Magistrate passed the order on sentence vide order dated 28.10.2017 whereby the petitioner was sentenced to undergo simple imprisonment for 6 months for the offence under Section 279 of the IPC and rigorous imprisonment for one year and six months for the offence under Section 304-A of the IPC. The petitioner thereafter assailed the judgment dated 1.10.2016 as well as the order on sentence dated 28.10.2017 before the Appellate Court. The Appellate Court vide judgment dated 17.2.2018 dismissed the appeal and took the petitioner into custody in order to serve the sentence imposed by the Trial Court.

3. Learned counsel for the petitioner submitted that the petitioner has already undergone almost 11 months incarceration and the socio-economic position of the family members of the petitioner is very precarious and the children of the petitioner are not even able to continue their studies.

4. Learned counsel for the petitioner, on instructions, further submitted that he is not arguing the petition on merits and taking into consideration the socio-economic position of the petitioner and his family members, the same be treated as a mercy petition.

5. Learned counsel for the petitioner further submitted that the petitioner has no other criminal antecedents, rather the petitioner himself took the deceased to the hospital at the time of the accident and his conduct was not in any manner malafide.

6. The status report filed by the learned APP for the State

demonstrates that the family of the petitioner is residing in a rented accommodation and the petitioner has three daughters and one son in his family, namely, Ms. Preeti aged 20 years, Ms. Sanjana aged 18 years, Ms. Parisha aged 10 years and Mr. Ajad aged 16 years.

7. Learned APP for the State submitted that the financial and economic position of the family members of the petitioner is also very weak.

8. Taking into consideration the socio-economic position of the petitioner and his family members as well as the aforesaid submissions and the conduct of the petitioner and the age of the children of the petitioner, this Court is of the opinion that the petitioner should be given a chance of rehabilitation and improvement. Further, there is no history of previous conviction and as per the nominal roll, the conduct of the petitioner is reported to be satisfactory during custody.

9. The petitioner has already undergone almost 11 months incarceration so far. Learned counsel for the petitioner submitted that the petitioner has already deposited the compensation amount of Rs.40,000/- and the receipt of the same is filed and this fact has also been verified by the learned APP for the State.

10. Accordingly, having regard to the aforesaid facts and circumstances and the culpability of the petitioner, I am of the view that ends of justice would be met if the sentence of the petitioner is modified to imprisonment of one year. Consequently, the petition is allowed in part. The conviction is upheld, however, the order on

sentence recorded by the Trial Court is modified to the extent hereinabove. The Trial Court record be sent back forthwith along with the copy of this judgment. A copy of this judgment be also sent to the Superintendent, Tihar Jail, New Delhi for updating their jail record.

11. The revision petition is disposed of in the above terms.

CHANDER SHEKHAR, J

DECEMBER 18, 2018/rk